

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IpLearn, LLC,

Plaintiff,

v.

K12 Inc.,

Defendant.

Civil Action No. 11-1026-LPS

DEMAND FOR JURY TRIAL

FIRST AMENDED COMPLAINT

Plaintiff IpLearn, LLC ("IpLearn") alleges as follows:

PARTIES

1. IpLearn is a California limited liability company with its principal place of business at 1807 Limetree Lane, Mountain View, California 94040. IpLearn is a technology development and licensing company for web and computer-based learning technologies.

2. IpLearn has been a pioneer in the field of web and computer-based learning technologies. Its innovations have been adopted extensively in the eLearning community, and its patents have been widely licensed in the industry.

3. On information and belief, Defendant K12 Inc. ("K12") is a Delaware corporation with its principal place of business at 2300 Corporate Park Drive, Suite 200, Herndon, Virginia 20171. K12 has appointed The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801, as its agent for service of process.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States of America, 35 U.S.C. § 1, *et seq.*, including § 271. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. Venue is proper in this district under 28 U.S.C. §§ 1391 (b)-(c) and 1400(b) because K12 is subject to personal jurisdiction in this district, has committed acts of patent infringement in this district, or has a regular and established place of business in this district.

COUNT I

(Infringement of U.S. Patent No. RE38,432)

6. IpLearn alleges and incorporates by reference paragraphs 1-5 of this Complaint as if fully set forth herein.

7. IpLearn is the owner by assignment of United States Patent No. RE38,432 ("the '432 patent"), entitled "Computer-Aided Group-Learning Methods and Systems." The '432 patent issued on February 24, 2004. A true and correct copy of the '432 patent is attached hereto as Exhibit A.

8. K12 has infringed and is infringing one or more claims of the '432 patent, literally and under the doctrine of equivalents, by making, using, selling, offering to sell, or importing computer-aided group learning services and products that provide an interactive environment to help users learn by, for example, allowing users to communicate in a dialogue session to work on a subject, including but not limited to its Elluminate Learning Suite. After being served with the Complaint in this action, K12 has knowingly contributed to the infringement, and continues to contribute to the infringement, of one or more of the claims of the '432 patent by making and unlawfully selling or offering to sell to customers computer-aided group learning services and products that provide an interactive environment to help users learn by, for example, allowing users to communicate in a dialogue session to work on a subject, including but not limited to its Elluminate Learning Suite, that constitute a material part of the invention and are not a staple article or commodity of commerce suitable for substantial noninfringing use. Further, after being served with the Complaint in this action, K12 has induced infringement, and continues to induce infringement, of one or more of the claims of the '432 patent by making and unlawfully selling or offering to sell to customers computer-aided group learning services and products that provide an interactive environment to help users learn by, for example, allowing users to communicate in a dialogue session to work on a subject, including but not limited to its Elluminate Learning Suite, with specific intent that these software products or services be used by K12 customers to infringe the '432 patent.

9. As a result of K12's infringement of the '432 patent, IpLearn has been irreparably harmed and has suffered monetary damages in an amount not yet determined, and will continue to suffer irreparable harm and damages in the future unless K12, and others acting on its behalf, are enjoined by this Court from infringing the '432 patent.

COUNT II

(Infringement of U.S. Patent No. 6,685,478)

10. IpLearn alleges and incorporates by reference paragraphs 1-5 of this Complaint as if fully set forth herein.

11. IpLearn is the owner by assignment of United States Patent No. 6,685,478 ("the '478 patent"), entitled "Inexpensive Computer-Aided Learning Methods and Apparatus for Learners." The '478 patent issued on February 3, 2004. A true and correct copy of the '478 patent is attached hereto as Exhibit B.

12. K12 has infringed and is infringing one or more claims of the '478 patent, literally and under the doctrine of equivalents, by making, using, selling, offering to sell, or importing computer-aided learning services and products that, for example, permit learning users to access materials for learning and institute users to access materials regarding learning users, including but not limited to its K-8 Courses, High School Courses, Summer School Courses, K-8 Program, High School Program, and online private schools: K12 International Academy and The Keystone School. After being served with the Complaint in this action, K12 has knowingly contributed to the infringement, and continues to contribute to the infringement, of one or more of the claims of the '478 patent by making and unlawfully selling or offering to sell to customers computer-aided learning services and products that, for example, permit learning users to access materials for learning and institute users to access materials regarding learning users, including but not limited to its K-8 Courses, High School Courses, Summer School Courses, K-8 Program, High School Program, and online private schools: K12 International Academy and The Keystone School, that constitute a material part of the invention and are not a staple article or commodity of commerce suitable for substantial noninfringing use. Further, after being served with the Complaint in this

action, K12 has induced infringement, and continues to induce infringement, of one or more of the claims of the '478 patent by making and unlawfully selling or offering to sell to customers computer-aided learning services and products that, for example, permit learning users to access materials for learning and institute users to access materials regarding learning users, including but not limited to its K-8 Courses, High School Courses, Summer School Courses, K-8 Program, High School Program, and online private schools: K12 International Academy and The Keystone School, with specific intent that these software products or services be used by K12 customers to infringe the '478 patent.

13. As a result of K12's infringement of the '478 patent, IpLearn has been irreparably harmed and has suffered monetary damages in an amount not yet determined, and will continue to suffer irreparable harm and damages in the future unless K12, and others acting on its behalf, are enjoined by this Court from infringing the '478 patent.

COUNT III

(Infringement of U.S. Patent No. 6,688,888)

14. IpLearn alleges and incorporates by reference paragraphs 1-5 of this Complaint as if fully set forth herein.

15. IpLearn is the owner by assignment of United States Patent No. 6,688,888 ("the '888 patent"), entitled "Computer-Aided Learning System and Method." The '888 patent issued on February 10, 2004. A true and correct copy of the '888 patent is attached hereto as Exhibit C.

16. K12 has infringed and is infringing one or more claims of the '888 patent, literally and under the doctrine of equivalents, by making, using, selling, offering to sell, or importing computer-aided learning services and products for learning a subject by, for example, analyzing the learner's test results using one or more rules to determine at least one weakness in the subject and providing guidance to the learner to target the weakness, including but not limited to its K-8 Courses, High School Courses, Summer School Courses, K-8 Program, High School Program, and online private schools: K12 International Academy and The Keystone School. After being served with the Complaint in this action, K12 has knowingly contributed to the infringement, and

continues to contribute to the infringement, of one or more of the claims of the '888 patent by making and unlawfully selling or offering to sell to customers computer-aided learning services and products for learning a subject by, for example, analyzing the learner's test results using one or more rules to determine at least one weakness in the subject and providing guidance to the learner to target the weakness, including but not limited to its K-8 Courses, High School Courses, Summer School Courses, K-8 Program, High School Program, and online private schools: K12 International Academy and The Keystone School, that constitute a material part of the invention and are not a staple article or commodity of commerce suitable for substantial noninfringing use. Further, after being served with the Complaint in this action, K12 has induced infringement, and continues to induce infringement, of one or more of the claims of the '888 patent by making and unlawfully selling or offering to sell to customers computer-aided learning services and products for learning a subject by, for example, analyzing the learner's test results using one or more rules to determine at least one weakness in the subject and providing guidance to the learner to target the weakness, including but not limited to its K-8 Courses, High School Courses, Summer School Courses, K-8 Program, High School Program, and online private schools: K12 International Academy, and The Keystone School, with specific intent that these software products or services be used by K12 customers to infringe the '888 patent.

17. As a result of K12's infringement of the '888 patent, IpLearn has been irreparably harmed and has suffered monetary damages in an amount not yet determined, and will continue to suffer irreparable harm and damages in the future unless K12, and others acting on its behalf, are enjoined by this Court from infringing the '888 patent.

PRAYER FOR RELIEF

IpLearn prays for the following relief:

1. A judgment that K12 has infringed, directly or indirectly, one or more claims of the patents-in-suit;

2. A permanent injunction enjoining K12 and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with it, from infringing patents-in-suit;

3. An award of damages resulting from K12's acts of infringement in accordance with 35 U.S.C. § 284;

4. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to IpLearn its reasonable attorneys' fees against K12;

5. A judgment and order requiring K12 to provide an accounting and to pay supplemental damages to IpLearn, including without limitation, pre-judgment and post-judgment interest; and

6. Any and all other relief to which IpLearn may show itself to be entitled.

DEMAND FOR JURY TRIAL

IpLearn demands a trial by jury on all issues so triable.

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